

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JONATHAN X. FLAGG and
JACQUELINE ALVAREZ,

Plaintiffs,

- *against* -

SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP PENSION PLAN,

Defendant.

07 Civ. 7392 (PKC) (HBP)

NOTICE OF MOTION TO DISMISS,
IN PART, THE FIRST AMENDED COMPLAINT

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 12(b)(6), and upon the accompanying Memorandum of Law in Support of Defendant's Motion to Dismiss, in Part, the First Amended Complaint, dated November 19, 2007, together with the Transmittal Declaration of James W. Brown and the Exhibits annexed thereto, dated November 19, 2007, and upon all prior pleadings and proceedings had herein, Defendant Skadden, Arps, Slate, Meagher & Flom LLP Pension Plan will move, before the Honorable P. Kevin Castel, U.S.D.J., at the United States Courthouse, 500 Pearl Street, New York, New York, on January 4, 2008, or as soon thereafter as counsel may be heard, for an Order:

- (i) dismissing with prejudice all of Plaintiff Alvarez's claims as time barred;
- (ii) dismissing with prejudice all claims in the First Amended Complaint based upon allegations of an ongoing omission;
- (iii) setting a time 30 days thereafter within which Defendant may answer the remainder of the First Amended Complaint; and
- (iv) for such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's instructions issued at the Pre-Motion Conference on November 16, 2007:

- (a) Plaintiffs' answering papers, if any, shall be served and filed no later than December 10, 2007;
- (b) Defendant's reply papers, if any, shall be served and filed no later than January 4, 2008; and
- (c) oral argument will not be held unless otherwise ordered by the Court.

Dated: New York, New York
November 19, 2007

/s/ Samuel Kadet
Samuel Kadet
Henry P. Wasserstein
James W. Brown
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